

RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS

Convention signed at Washington March 9, 1880

*Senate advice and consent to ratification, with an amendment, June 15, 1880*¹

*Ratified by the President of the United States, with an amendment, June 25, 1880*¹

Ratified by Belgium September 8, 1880

*Ratifications exchanged at Washington February 25, 1881*²

Entered into force February 25, 1881

Proclaimed by the President of the United States March 1, 1881

*Articles XI and XII abrogated by the United States July 1, 1916, in accordance with Seamen's Act of March 4, 1915*³

21 Stat. 776; Treaty Series 29

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE KING OF THE BELGIANS, DEFINING THE RIGHTS, IMMUNITIES, AND PRIVILEGES OF CONSULAR OFFICERS

The President of the United States of America and His Majesty the King of the Belgians, being mutually desirous of defining the rights, privileges and immunities of consular officers in the two countries, deem it expedient to conclude a consular convention for that purpose, and have accordingly named as their plenipotentiaries:

The President of the United States, William Maxwell Evarts, Secretary of State; and His Majesty the King of the Belgians, Maurice Delfosse, Commander of the Order of Leopold, &c., &c., his Envoy Extraordinary and Minister Plenipotentiary in the United States; who, after having communicated to each other their respective full powers, found to be in good and proper form, have agreed upon the following articles:

¹ The United States amendment called for deletion of the word "alone" following the phrase "upon such request" in the first line of the second paragraph of art. XII (for background, see 1880 For. Rel. 72). The text printed here is the amended text as proclaimed by the President.

² The United States Senate on Jan. 5, 1881, gave its advice and consent to an extension of six months for exchange of ratifications.

³ 38 Stat. 1164.

ARTICLE I

Each of the high contracting parties agrees to receive from the other, consuls-general, consuls, vice-consuls, and consular agents, in all its ports, cities and places, except those where it may not be convenient to recognize such officers. This reservation, however, shall not apply to one of the high contracting parties without also applying to every other power.

ARTICLE II

The consuls-general, consuls, vice-consuls and consular agents of each of the two high contracting parties shall enjoy reciprocally, in the States of the other, all the privileges, exemptions and immunities that are enjoyed by officers of the same rank and quality of the most favored nation. The said officers, before being admitted to the exercise of their functions and the enjoyment of the immunities thereto pertaining, shall present their commissions in the forms established in their respective countries. The government of each of the two high contracting powers shall furnish them the necessary exequatur free of charge, and, on the exhibition of this instrument, they shall be permitted to enjoy the rights, privileges and immunities granted by this convention.

ARTICLE III

Consuls-general, consuls, vice-consuls and consular agents, citizens of the State by which they are appointed, shall be exempt from preliminary arrest except in the case of offenses which the local legislation qualifies as crimes and punishes as such; they shall be exempt from military billetings, from service in the regular army or navy, in the militia, or in the national guard; they shall likewise be exempt from all direct taxes, national, State or municipal, imposed upon persons, either in the nature of capitation tax or in respect to their property, unless such taxes become due on account of the possession of real estate, or for interest on capital invested in the country where the said officers exercise their functions. This exemption shall not, however, apply to consuls-general, consuls, vice-consuls or consular agents engaged in any profession, business or trade, but the said officers shall in such case be subject to the payment of the same taxes that would be paid by any other foreigner under the like circumstances.

ARTICLE IV

When a court of one of the two countries shall desire to receive the judicial declaration or deposition of a consul-general, consul, vice-consul or consular agent, who is a citizen of the State which appointed him, and who is engaged in no commercial business, it shall request him, in writing, to appear before it, and in case of his inability to do so, it shall request him to give his testimony in writing, or shall visit his residence or office to obtain it orally.

It shall be the duty of such officer to comply with this request with as little delay as possible.

In all criminal cases, contemplated by the sixth article of the amendments to the Constitution of the United States, whereby the right is secured to persons charged with crimes to obtain witnesses in their favor, the appearance in court of said consular officer shall be demanded, with all possible regard to the consular dignity and to the duties of his office. A similar treatment shall also be extended to the consuls of the United States in Belgium, in the like cases.

ARTICLE V

Consuls-general, consuls, vice-consuls and consular agents may place over the outer door of their offices the arms of their nation, with this inscription: *Consulate-General*, or *Consulate*, or *Vice-Consulate*, or *Consular Agency of the United States* or of *Belgium*.

They may also raise the flag of their country on their offices, except in the capital of the country when there is a legation there. They may in like manner, raise the flag of their country over the boat employed by them in the port for the exercise of their functions.

ARTICLE VI

The consular offices shall at all times be inviolable. The local authorities shall not, under any pretext, invade them. In no case shall they examine or seize the papers there deposited. In no case shall those offices be used as places of asylum. When a consular officer is engaged in other business, the papers relating to the consulate shall be kept separate.

ARTICLE VII

In the event of the death, incapacity or absence of consuls-general, consuls, vice-consuls and consular agents, their chancellors or secretaries, whose official character may have previously been made known to the Department of State at Washington, or to the Ministry for Foreign Affairs in Belgium, may temporarily exercise their functions, and while thus acting they shall enjoy all the rights, prerogatives and immunities granted to the incumbents.

ARTICLE VIII

Consuls-general and consuls may, so far as the laws of their country allow, with the approbation of their respective governments, appoint vice-consuls and consular agents in the cities, ports and places within their consular jurisdiction. These agents may be selected from among citizens of the United States or of Belgium, or those of other countries. They shall be furnished with a regular commission, and shall enjoy the privileges stipulated for consular officers in this convention, subject to the exceptions specified in Articles III, and IV.

ARTICLE IX

Consuls-general, consuls, vice-consuls and consular agents, shall have the right to address the administrative and judicial authorities, whether in the United States, of the Union, the States or the municipalities, or in Belgium, of the State, the province or the commune, throughout the whole extent of their consular jurisdiction, in order to complain of any infraction of the treaties and conventions between the United States and Belgium, and for the purpose of protecting the rights and interests of their countrymen. If the complaint should not be satisfactorily redressed, the consular officers aforesaid, in the absence of a diplomatic agent of their country, may apply directly to the government of the country where they exercise their functions.

ARTICLE X

Consuls-general, consuls, vice-consuls and consular agents may take at their offices, at their private residence, at the residence of the parties, or on board ship, the depositions of the captains and crews of vessels of their own country, of passengers on board of them, and of any other citizen of their nation. They may also receive at their offices, conformably to the laws and regulations of their country, all contracts between the citizens of their country and the citizens or other inhabitants of the country where they reside, and even all contracts between the latter, provided they relate to property situated or to business to be transacted in the territory of the nation to which the said consular officer may belong.

Such papers and official documents of every kind, whether in the original, in copies, or in translation, duly authenticated and legalized by the consuls-general, consuls, vice-consuls and consular agents, and sealed with their official seal, shall be received as legal documents in courts of justice throughout the United States and Belgium.

ARTICLE XI *

The respective consuls-general, consuls, vice-consuls and consular agents shall have exclusive charge of the internal order of the merchant vessels of their nation, and shall alone take cognizance of all differences which may arise, either at sea or in port, between the captains, officers and crews, without exception, particularly in reference to the adjustment of wages and the execution of contracts. The local authorities shall not interfere except when the disorder that has arisen is of such a nature as to disturb tranquillity and public order on shore, or in the port, or when a person of the country or not belonging to the crew shall be concerned therein.

In all other cases, the aforesaid authorities shall confine themselves to

* Abrogated by the United States July 1, 1916, in accordance with Seamen's Act of Mar. 4, 1915 (38 Stat. 1164).

lending aid to the consuls and vice-consuls or consular agents, if they are requested by them to do so, in causing the arrest and imprisonment of any person whose name is inscribed on the crew-list, whenever, for any cause, the said officers shall think proper.

ARTICLE XII ⁴

The respective consuls-general, consuls, vice-consuls and consular agents may cause to be arrested the officers, sailors, and all other persons making part of the crews, in any manner whatever, of ships of war or merchant vessels of their nation, who may be guilty, or be accused, of having deserted said ships and vessels, for the purpose of sending them on board or back to their country. To this end they shall address the competent local authorities of the respective countries, in writing, and shall make to them a written request for the deserters, supporting it by the exhibition of the register of the vessel and list of the crew, or by other official documents, to show that the persons claimed belong to the said ship's company.

Upon such request ⁵ thus supported, the delivery to them of the deserters cannot be refused, unless it should be duly proved that they were citizens of the country where their extradition is demanded at the time of their being inscribed on the crew-list. All the necessary aid and protection shall be furnished for the pursuit, seizure and arrest of the deserters, who shall even be put and kept in the prisons of the country, at the request and expense of the consular officers until there may be an opportunity for sending them away. If, however, such an opportunity should not present itself within the space of three months, counting from the day of the arrest, the deserters shall be set at liberty, nor shall they be again arrested for the same cause.

If the deserter has committed any misdemeanor, and the court having the right to take cognizance of the offense shall claim and exercise it, the delivery of the deserter shall be deferred until the decision of the court has been pronounced and executed.

ARTICLE XIII

In the absence of an agreement to the contrary between the owners, freighters and insurers, all damages suffered at sea by the vessels of the two countries, whether they enter port voluntarily, or are forced by stress of weather, shall be settled by the consuls-general, consuls, vice-consuls and consular agents of the respective countries. If, however, any inhabitant of the country or citizen or subject of a third power, shall be interested in the matter, and the parties cannot agree, the competent local authorities shall decide.

⁵ See footnote 1, p. 494.

ARTICLE XIV

All proceedings relative to the salvage of vessels of the United States wrecked upon the coasts of Belgium, and of Belgian vessels wrecked upon the coasts of the United States, shall be directed by the consuls-general, consuls and vice consuls of the two countries respectively, and until their arrival, by the respective consular agents, wherever an agency exists. In the places and ports where an agency does not exist, the local authorities, until the arrival of the consul in whose district the wreck may have occurred, and who shall be immediately informed of the occurrence, shall take all necessary measures for the protection of persons and the preservation of wrecked property.

The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved.

It is understood that such merchandise is not to be subjected to any custom-house charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XV

In case of the death of any citizen of the United States in Belgium, or of a citizen of Belgium in the United States, without having any known heirs or testamentary executor by him appointed, the competent local authorities shall give information of the circumstance to the consuls or consular agents of the nation to which the deceased belongs, in order that the necessary information may be immediately forwarded to parties interested.

Consuls-general, consuls, vice-consuls and consular agents shall have the right to appear, personally or by delegate, in all proceedings on behalf of the absent or minor heirs, or creditors, until they are duly represented.

ARTICLE XVI

The present convention shall remain in force for the space of ten years, counting from the day of the exchange of the ratifications, which shall be made in conformity with the respective constitutions of the two countries, and exchanged at Washington as soon as possible within the period of six months.⁶ In case neither party gives notice, twelve months before the expiration of the said period of ten years, of its intention not to renew this convention, it shall

⁶ See footnote 2, p. 494.

remain in force one year longer, and so on from year to year, until the expiration of a year from the day on which one of the parties shall have given such notice.

In faith whereof, the respective plenipotentiaries have signed this convention, and have hereunto affixed their seals.

Done at Washington, in duplicate, the ninth of March, one thousand eight hundred and eighty.

WILLIAM MAXWELL EVARTS	[SEAL]
MAURICE DELFOSSE	[SEAL]